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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,216	05/31/2001	Marcel F.C. Schemmann	11890/2	6854
26646 7590 05/01/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER PHAN, HANH				
ART UNIT 2613		PAPER NUMBER		
MAIL DATE 05/01/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/871,216

Applicant(s)

SCHEMMANN ET AL.

Examiner

Hanh Phan

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 24-29 and 51-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 and 24-29 is/are allowed.
- 6) ☒ Claim(s) 12 and 53 is/are rejected.
- 7) ☒ Claim(s) 13, 51 and 52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 01/30/2008.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nystrom et al (US Patent No. 5,412,351) in view of Adachi et al (Pub. No.: US 2001/0050962) and further in view of Murakami et al (US Patent No. 6,608,868) OR Crozier (US Patent No. 5,638,404).

Regarding claims 12 and 53, referring to Figures 1 and 5a, Nystrom discloses a method of reducing the transmitted power of a quadrature modulated data signal, comprising the steps of:

providing a quadrature modulated data signal (Figs. 1 and 5a); and

during all transitional states of the quadrature modulated data signal in which data symbols change in value, reducing the power to zero such that transmitted power decreases to zero at approximately a mid point of the transitional states (see col. 1, lines 16-28, col. 2, lines 60-67 and col. 3, lines 1-14).

Nystrom differs from claims 12 and 53 in that he does not specifically teach the signal is an optical signal and decreasing transmitted power to zero at approximately a

mid point of each the transitional states. However, Adachi teaches the signal is an optical signal (Figs. 9 and 16, page 7, paragraphs [0151]-[0152]) and Murakami et al teaches decreasing transmitted power to zero at approximately a mid point of each the transitional states (i.e., Figures 7, 9, 11, 13, 15, 17, 19 and 25, from col. 7, line 25 to col. 13, line 49) OR Crozier teaches decreasing transmitted power to zero at approximately a mid point of each the transitional states (i.e., Figures 2, 3A, 3B, 9-12, 23 and 24, from col. 3, line 55 to col. 11, line 38) . Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the signal is an optical signal and the decreasing transmitted power to zero at approximately a mid point of each the transitional states as taught by Adachi and Murakami et al OR Crozier in the system of Nystrom. One of ordinary skill in the art would have been motivated to do this since Adachi suggests in page 7, paragraphs [0151]-[0152] that using such the signal is an optical signal has advantage of allowing providing an optical communication system with high speed and high capacity and reducing the error signal..

Allowable Subject Matter

4. Claims 13, 51 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 1-11 and 24-29 are allowed.

Response to Arguments

6. Applicant's arguments with respect to claims 1-13, 24-29 and 51-53 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye, can be reached on (571)272-3078. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

/Hanh Phan/

Primary Examiner, Art Unit 2613